

For the proposed Statewide General National Pollutant Discharge Elimination System (NPDES) Permit for Residual Aquatic Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications, change the following:

Change Section II.A on page 3 as follows:

This General Permit covers the point source discharge to waters of the United States of pesticide residues resulting from applications using products containing 2,4-D, acrolein, copper, diquat, endothall, fluridone, glyphosate, imazamox, imazapyr, penoxsulam, sodium carbonate peroxyhydrate, and triclopyr-based algaecides and aquatic herbicides, and **adjuvants containing ingredients represented by the surrogate** nonylphenol. This General Permit covers only discharges of algaecides and aquatic herbicides **products** that are currently registered for use in California, or that become registered for use and contain the above-listed active ingredients **and ingredients represented by the surrogate of nonylphenol**.

Change Section VIII.C.11.a.vi on page 11 as follows:

If there are no alternatives to algaecides and aquatic herbicides, Dischargers shall use the minimum amount of algaecides and aquatic herbicides that is necessary to have an effective control program and **is** consistent with the algaecide and aquatic herbicide product label requirements.

Change Section VIII.D on page 11 as follows:

Upon receipt of an APAP, staff will post it on the State Water Board's website for a 30-day public comment period¹ **and will distribute a notice via the State Water Board's Lyris list that an APAP has been posted.** Staff will coordinate with Regional Water Board staff in reviewing the application package for completeness and applicability to this General Permit. If no comments are received and State and Regional Water Board staff deem the APAP complete, the Deputy Director will issue an NOA within five (5) working days of closure of the comment period. If comments are received, staff will work with Regional Water Board staff and the Discharger to address the comments to allow the Deputy Director to issue an NOA as expeditiously as possible. Permit coverage will begin when the Discharger receives the NOA.

¹ See Waterkeeper Alliance, Inc. v. EPA, 399 F.3d 486 (2nd Cir. 2005).

Change Section IX.A.3 on page 12 as follows:

This General Permit does not authorize any take of endangered species. The discharge is prohibited from adversely impacting biologically sensitive or critical habitats, including, but not limited to, habitat of species listed under federal or state endangered species laws. To ensure that endangered species issues are raised to the responsible agencies, the State Water Board has notified the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the California Department of Fish and ~~Game~~ Wildlife of this General Permit.

Attachment C – Monitoring and Reporting Program:

Change Section IV.B on page C-7 as follows:

The Coalition or Discharger shall complete and retain all information on the previous fiscal reporting year beginning January 1 and ending December 31. When requested by the Deputy Director or Executive Officer of the applicable Regional Water Board, the Coalition or Discharger shall submit the annual information which must include the following:

Attachment D – Fact Sheet

Change Section II.A.3 on page D-8 as follows:

3. An APAP.

State Water Board staff will post the APAP on the State Water Board's website for 30 days for public review. In the meantime, the State and Regional Water Board staff will review the application package for completeness and applicability to this General Permit. After the application has been deemed complete, the Deputy Director will issue an NOA. The NOA will specify the permitted active ingredients of algaecides and aquatic herbicides that may be used, and any Regional Water Board specific conditions and requirements not stated in this General Permit. Any such region-specific conditions and requirements shall be enforceable. The Discharger is authorized to discharge starting on the date of the NOA. If comments are received on the APAP, staff will immediately work to address them in order for an NOA to be issued within 90 days of receipt of the application.

Change Section III on page D-9 as follows:

This General Permit covers the point source discharge to waters of the United States of pesticide residues resulting from applications using products containing 2,4-D, acrolein, copper, diquat, endothall, fluridone, glyphosate, imazamox, imazapyr, penoxsulam, sodium carbonate peroxyhydrate, and triclopyr-based

algaecides and aquatic herbicides, and adjuvants containing ingredients represented by the surrogate nonylphenol. This General Permit covers only discharges of algaecides, aquatic herbicides, products and adjuvants that are currently registered for use in California, or that become registered for use and contain the above-listed active ingredients and ingredients represented by the surrogate of nonylphenol.

Change the last paragraph in Section III.A on page D-9 as follows:

A. Existing Discharge Description

As of ~~JANUARY~~ January 11, 2013, there were 153 active enrollees under Water Quality Order No. 2004-0009-DWQ, Statewide General National Pollutant Discharge Elimination System Permit for the Discharge of Aquatic Pesticides for Aquatic Weed Control in Waters of the United States, General Permit No. CAG990005 (Order No. 2004-0009-DWQ). Most of the enrollees are local public agencies such as cities and irrigation, flood control, or reclamation districts. The other enrollees include six state of California agencies: ~~(the Departments of)~~ Boating and Waterways, Fish and ~~Game~~ Wildlife, Food and Agriculture, Parks and Recreation, Transportation, and Water Resources; a federal agency, U.S. Department of Fish and Wildlife Service; and a few private entities such as home owner associations and mobile home park owners.

Change the last paragraph in Section IV.C.5 on page D-15 as follows:

5. Endangered Species Act

This General Permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and ~~Game~~ Wildlife Code §2050 et. seq) or the Federal Endangered Species Act (16 U.S.C.A. §1531 et. seq). This General Permit requires compliance with effluent limitations, receiving water limitations, and other requirements to protect the beneficial uses of waters of the state. The Discharger is responsible for meeting all requirements of the applicable Endangered Species Act.

Change Section VI.B.1 on page D-23 as follows:

1. Receiving Water Limitations

The instantaneous maximum receiving water limitations are based on promulgated water quality criteria such as those provided in the CTR, water quality objectives adopted by the State and Regional Water Boards in their Basin Plans, water quality criteria adopted by the California Department of Fish and ~~Game~~ Wildlife, water quality standards such as drinking water standards adopted by U.S. EPA or the California Department of Public Health (CDPH), or U.S. EPA National Recommended Ambient Water Quality Criteria.

Attachment E – Notice of Intent

Change Section XI on page E-3 as follows:

XI. FOR STATE WATER BOARD STAFF USE ONLY

WDID:	Date NOI Received:	Date NOI Processed:
Case Handler's Initial:	Fee Amount Received: \$	Check #:
<input type="checkbox"/> <u>Lyris list notification of posting of APAP</u>	<u>Date</u>	<u>Confirmation Sent</u>

Change Section IV on page E-5 as follows:

Section IV – Receiving Water Information

Please be reminded that this General Permit does not authorize any act that results in the taking of a threatened or endangered species or any act that is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and **Game Wildlife** Code §2050 et. seq) or the Federal Endangered Species Act (16 U.S.C.A. §1531 et. seq). This General Permit requires compliance with effluent limitations, receiving water limitations, and other requirements to protect the beneficial uses of waters of the state. The Discharger is responsible for meeting all requirements of the applicable Endangered Species Act.